

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ADDICTION SPECIALISTS, INC.,

Plaintiff,

04cv0696

v.

THE TOWNSHIP OF HAMPTON, ET AL.,

Defendants.

ORDER OF COURT

_____ This is a civil rights action brought pursuant to 42 U.S.C. § 1983 and the Declaratory Judgment Act ("DJA"), 28 U.S.C. § 2201. Plaintiff, Addiction Specialists, Inc., allege that defendants, the Township of Hampton (through the Pennsylvania Municipalities Planning Code and the Hampton Township Zoning Ordinance), denied it equal protection and due process in violation of 42 U.S.C. § 1983, and discriminated against it under Titles II and IV of the Americans with Disabilities Act ("ADA") and the Section 504 of the Rehabilitation Act of 1973 ("RA"), when it refused plaintiff's request to grant an occupancy permit for a methadone treatment facility on certain property located in Hampton Township, Allegheny County, Pennsylvania..¹ Plaintiff seeks damages of \$1,000,000 for lost revenue and equitable relief including: (1) a declaration that the defendants' denial of the subject occupancy permit is unconstitutional; (2) an order requiring defendants to grant plaintiff a permit; and (3) an order

¹Specifically, count one alleges substantive due process violations pursuant to 42 U.S.C. § 1983, count two alleges denial of equal protection pursuant to 42 U.S.C. § 1983, count three alleges violation of Title II of the ADA pursuant to 42 U.S.C. § 12101, count four alleges violation of Title IV of the ADA pursuant to 42 U.S.C. § 12203(b), count five alleges violation of the RA pursuant to 29 U.S.C. § 706, and counts six and seven seek declaratory judgment.

enjoining defendants and its officers from engaging in further discriminatory acts. Defendants' previously filed a motion to dismiss plaintiff's second amended complaint, which this Court granted on September 8, 2005 on the basis of the *Younger* abstention doctrine. *Younger v. Harris*, 401 U.S. 37 (1971).

On June 14, 2005, the United States Court of Appeals for the Third Circuit affirmed this Court's holding as to abstention from plaintiff's claims for declaratory and injunctive relief (count seven), and reversed and remanded as to abstention from the remaining counts (counts one-six). *Addiction Specialists, Inc. v. The Township of Hampton, et al.*, 411 F.3d 399 (3d Cir. 2005) The Court of Appeals also noted, "[o]n remand, the District Court may, within its discretion, stay its adjudication of ASI's (Addiction Specialists Inc.) federal claims pending the outcome of the state land use appeal." *Id* at 415.

Upon receipt of the mandate, on August 12, 2005, this Court ordered cross-briefs to be filed regarding the issue of staying the proceedings pending a state court determination on the land use appeal.

The parties appear to be in agreement that a stay is warranted, pending the outcome of the parallel state court proceedings. And, although the Court notes that currently the state court has stayed its proceeding, the Court of Appeals aptly stated, and this Court echoes the sentiment that, "whatever one state court's motivations may have been in granting the stay, the bottom line for our purposes is that a state proceeding involving important state interests is still pending, and the principles of comity underlying *Younger* counsel against deciding those issues in federal court at this time." *Id.* at 414.

Accordingly, this Court will stay the proceedings pending a state court determination on

the land use appeal. The Clerk of Courts shall remove this case from the docket for administrative purposes. The Court will consider reinstating the case to the docket upon written motion with good cause.

So Ordered, this 26th day of August, 2005

Arthur J. Schwab
United States District Judge

cc: All counsel of record as listed below

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